

landline network. As such, Comcast submits that the Commission should first resolve the critical cost issues affecting LEC interconnection and CMRS competition prior to addressing the need for rules in non-dominant carrier interconnection.

Comcast is concerned that the development, growth and expansion of competitive CMRS as well as other competitive networks could be adversely affected by the imposition of direct interconnection requirements. Because interconnection can and will occur through the monopoly switched telephone network, there is no current need for direct connections for other network subscribers to communicate. Only when there is no longer a monopoly network does the need for uniform direct connection policies arise. In the meantime, the Commission should encourage the development of competitive networks through enlightened LEC interconnection policies rather than stifle the ability of new CMRS entrants to introduce new services or grow by imposing costly and premature direct connection requirements.

B. A CMRS Interconnection Obligation for "Switch-based" CMRS Resellers Is Not In The Public Interest

The Notice also inquires whether "switch-based" resale interconnection obligations are theoretically similar to other more general service resale requirements and ought to be imposed on facilities-based CMRS providers. Comcast does

not support the creation of an obligation to make piece parts of its cellular system or future PCS systems available to "switch-based" resellers.

"Switch-based" resale is not theoretically similar to interexchange, local or cellular resale. It is essentially a requirement that would force competitive facilities based CMRS providers to disaggregate portions of their networks. Analysis of the cellular switch-based resale business should convince the Commission that there is no economic basis, lower cost or other consumer benefit that can be realized by disaggregating cellular switching and transport functions. It is neither feasible nor rational to require because the cellular switch must continue to perform routing functions that create costs that would have to be passed onto the reseller.

Non-LEC CMRS providers do not control bottleneck networks. They have made enormous investments in acquiring spectrum and constructing and operating a system. The imposition of reseller interconnection obligations, coupled with a draconian cost and facility disaggregation regime will sap these systems of their ability to provide any form of competition to the local loop. Promoting local exchange competition must be the Commission's first priority, particularly given that the development of competitive wireless systems such as ESMR and PCS develop the market competitively without the need for "switch-based" resellers.

**IV. THE PUBLIC INTEREST WILL NOT BE SERVED BY IMPOSING
MODIFIED FINAL JUDGMENT EQUAL ACCESS OBLIGATIONS ON ALL
CELLULAR PROVIDERS**

Section 201(a) of the Communications Act of 1934 (the "Act") imposes upon every common carrier engaged in interstate or foreign communication, by wire or radio, the duty to furnish service upon reasonable request, and authorizes the Commission to order common carriers to establish physical connections with other carriers, where necessary or desirable in the public interest.^{16/} As such, the Commission may act in the public interest when market conditions and competitive forces dictate a need to prevent the development of telecommunications bottlenecks and the perpetuation of anti-competitive practices. It is pursuant to this authority that the Commission considers the imposition of "equal access" requirements on all cellular carriers, and potentially on all CMRS providers.^{17/}

To exercise this authority, however, the Commission must make certain public interest findings to support its determinations. Specifically, the Commission must consider: (1) whether the market power held by cellular providers, and

^{16/} See Communications Act of 1934, 47 U.S.C. § 201(a) (1934).

^{17/} The Notice defines "equal access" as access that is equal in type, quality and price to that provided to AT&T and its affiliates. See Notice at ¶ 50 (adopting MFJ definition). Comcast questions whether the MFJ version of equal access is either suitable or relevant for the Commission's current purposes, as it was designed to control anticompetitive BOC behavior and not to address the competitive market.

in particular by a relatively small segment of the cellular market served by non-wireline carriers not owned by McCaw/AT&T, demands that "equal access" be imposed; and (2) whether its policy goals will be achieved through imposition of these obligations.^{18/} An analysis of the market power held by non-wireline cellular operators, and a consideration of the costs and customer losses associated with such a requirement simply provide no support for adoption of the Notice's equal access proposals.

The current agitation for equal access comes primarily from two sources. First, rather than attempting to negotiate with the independent non-wireline cellular carriers, MCI seeks instead to impose a regulatory solution. Second, the BOCs are using this process as a bargaining chip to free themselves from an equal access obligation in the largest of market areas, the Rand McNally Major Trading Areas. If they fail to gain this freedom, BOCs are in favor of equal access only if it is applied to all other cellular providers. The BOCs seek to burden smaller, less geographically concentrated independent cellular operators with an obligation that arose entirely out of the connection

^{18/} In the related Regulatory Parity proceedings, the Commission identified a number of policy goals it seeks to achieve in establishing rules that treat similarly-situated service providers the same. They include: (1) promoting the efficient provision of service at reasonable prices; (2) fostering competition; and (3) promoting and achieving the broadest possible access to telecommunications networks and services by all telecommunications users. See Parity Order, 9 FCC Rcd at 1417-1422.

of BOC cellular operations with the BOC monopoly landline bottleneck. The Commission must resist the temptation to expand a regulatory requirement by taking this "one size fits all" approach to equal access.

A. The Factual Predicate That Supported The Imposition Of Equal Access Obligations On the BOCs And BOC-Affiliated Cellular Carriers Cannot Support Application Of The Requirements To Independent Non-Wireline Cellular Operators

Any determination regarding the propriety of imposing uniform equal access obligations cannot fairly be made without an understanding of the historic significance and genesis of the BOC equal access requirement. Interexchange equal access obligations were first imposed on the regional BOCs by the Modified Final Judgment ("MFJ") because of the BOCs' bottleneck control of access to their landline local exchange customers. Specifically, the equal access provisions of the MFJ were intended to prevent local exchange monopolists from leveraging their monopoly power to impede the development of competition in the interexchange marketplace.

Accordingly, the MFJ required the BOCs to offer access to the local exchange network to all interexchange carriers that is "equal in type and quality" to that offered to AT&T and its affiliates.^{19/} Traffic which crossed local access and transport area ("LATA") boundaries had to be handed off

^{19/} See United States v. AT&T, 552 F. Supp. 131, 233 (D.D.C. 1982).

to the interexchange carrier ("IXC") selected by the subscriber. Moreover, BOCs were directed to implement a customer balloting and allocation plan through which primary interexchange carriers could be chosen by BOC customers. The MFJ Court consistently has held that the requirement on BOCs to provide equal access applies to BOC cellular affiliates.^{20/}

Application of LATA boundaries and equal access obligations to BOC-affiliated cellular carriers, though not addressed in the MFJ, were made a condition of the provision of "extraregional" cellular service by the BOCs. The MFJ Court concluded that BOC bundling of the cellular/IXC component with the landline monopoly, even if occurring outside a specific local service area, resulted in too great a concentration of power and too great an opportunity for discrimination in the IXC marketplace.^{21/}

20/ See United States v. Western Electric Co., No. 82-0192, para. 8 (D.D.C. Feb. 26, 1986) (permitting PacTel acquisition of extraregional cellular operations subject to equal access obligations); United States v. Western Electric Co., No. 82-0192, para. 5 (D.D.C. Oct. 31, 1986) (permitting BellSouth acquisition of controlling and minority interests in extraregional cellular operations and imposing equal access obligations upon those cellular operations in which BellSouth would have a substantial investment); see also United States v. Western Electric Co., Civil Action No. 82-0192 (HHG), Case Nos. 971 and 2416, 1990-2 Trade Cas. ¶69,177 (Sept. 12, 1990).

21/ Id. Dr. Brock in fact observes that the monopoly LEC has a natural incentive and ability to favor its affiliate in the competitive market segment and can do so while at the same time disadvantaging its affiliate's competitors. See Brock Paper at 15-17.

No similar factual predicate for the imposition of equal access obligations on non-wireline, independent cellular carriers, such as Comcast, exists. Unlike BOC-affiliated cellular operators, non-wireline cellular carriers have no bottleneck facility from which to leverage competitive advantages.^{22/} Moreover, non-wireline carriers currently compete with vertically integrated BOC-affiliated cellular operators in virtually every market and will face increased competition as wireless providers of advanced telecommunications services continue to enter the wireless marketplace. Competitive forces simply do not permit companies like Comcast to dominate the cellular marketplace, or otherwise impede IXC competition.

Indeed, the ability of independent cellular operators and other CMRS carriers to combine long distance and local calling services enhances their ability to compete with the bottleneck local exchange. The current situation of the BOCs and McCaw/AT&T, however, is entirely different. The monopoly bottleneck, concentration and market power of the BOCs and their ability to manipulate the actions of their

^{22/} On August 25, 1994, the U.S. District Court for the District of Columbia (Judge Greene) substantiated this very fact in stating that "'A' block cellular systems ... do not constitute bottleneck monopolies." See Opinion at 17, United States v. Western Electric Company, Inc., Civil Action No. 82-0192 (HHG), released August 25, 1994.

affiliates justifies their equal access requirement.^{23/} McCaw/AT&T voluntarily agreed to an equal access requirement as a condition of their merger.^{24/} An equal access requirement in that instance is appropriate, as AT&T, the largest IXC, could otherwise demand all the IXC traffic of McCaw, the largest cellular operator. Once local competition is well established, however, Comcast would not oppose reexamination of the restrictions on either the BOCs or AT&T/McCaw.

B. An Analysis Of The Cellular Marketplace Indicates That The Imposition Of Equal Access Obligations On The Remaining Cellular Carriers Will Be Detrimental To The Public Interest

The Notice correctly recognizes that obligating service providers to offer equal access when they do not possess market power may not be in the public interest.^{25/} Comcast submits that the imposition of burdensome and costly equal access obligations on the independent cellular carriers, regardless of their ability to divert traffic to an IXC affiliate, regardless of the size and scope of the competitive markets at issue, and regardless of their lack

^{23/} In its recent Opposition submission to the MFJ Court on the generic BOC wireless services waiver, the Department of Justice opposed BOC attempts to bundle local and long distance services over areas as large as the Major Trading Areas. See Department of Justice Response filed July 25, 1994.

^{24/} See Justice Department Files Antitrust Suit and Consent Decree in AT&T-McCaw Merger, July 15, 1994.

^{25/} See Notice at ¶ 34.

of ability to dominate competition in the wireless market through interconnection and what is now and for the foreseeable future a bottleneck, will undermine the proposed benefits of equal access and will result in a reduction of competition within CMRS, between CMRS and the local bottleneck, and among IXCs who otherwise would have to compete for the business of independent cellular operators.

The Notice's tentative conclusion to impose equal access obligations on independent cellular providers further ignores imminent wireless competition from Personal Communications Services ("PCS"), Enhanced Specialized Mobile Radio ("ESMR") and other emerging telecommunications service providers. With the advent of new, innovative services, and the ability of new entrants to satisfy the demand for wireless service, no basis exists for imposing equal access obligations on independent cellular providers.^{26/} To do so, when the number of wireless telecommunications suppliers is on the verge of tripling, will have the unintended consequence of impeding the development of wireless competition and unnecessarily burdening these cellular carriers with significant costs that will hinder their ability to compete with new entrants. Simply put, the

^{26/} The Commission has repeatedly stated its expectation that many markets will be served by at least five or six wireless service providers that are capable of providing sophisticated voice and data communications. These may include two or three PCS providers, two cellular providers and an ESMR service provider.

purported market power conditions that led the Commission to propose that non-wireline cellular providers offer equal access does not now exist and given that potential competitors have entered or will enter the wireless marketplace shortly cannot exist in the future.

More fundamentally, the Notice raises, but fails to address, the notion that cellular carriers unaffiliated with a bottleneck monopoly or a dominant IXC simply do not have the same anti-competitive incentives and abilities as LEC and LEC affiliates. While the Notice requests comment on whether there is some other, as yet undefined, public interest reason for imposing equal access on carriers like Comcast, this undisputed lack of bottleneck facilities cannot continue to be ignored.

The Commission's reasoning in proposing non-BOC affiliated cellular equal access is faulty. In mandating cellular equal access for BOC-affiliated cellular providers, the MFJ Court was concerned with the competitive characteristics of the IXC marketplace, and the ability of IXCs to market their services to customers who are required to purchase their local telecommunications service from a local exchange monopolist. In considering imposition of the same burdens on independent cellular operators in this proceeding, however, the Commission fails to consider competitive developments in the wireless marketplace. The Commission should not require non-wireline cellular carriers

to incur significant costs of equal access without considering the changes that the cellular industry will experience in the coming months and years.

Moreover, uniform treatment of all cellular providers can no longer be supported by the theory that IXCs require equal access to compete successfully. As a result of out-of-region BOC-affiliated cellular acquisitions, both cellular carriers in many markets already provide IXC equal access in a significant number of markets nationwide.^{27/} In addition, with the impending consummation of the AT&T/McCaw merger, both cellular carriers in a vast majority of markets will provide their subscribers with the ability to choose from a menu of IXCs.^{28/}

Because the cellular industry will undergo vast changes in the near term, the Commission should continue to permit the relatively few remaining independent non-BOC, non-AT&T affiliated cellular carriers to adopt equal access if they determine that their consumers are willing to bear the cost. At this time, the record illustrates that although consumers

^{27/} Moreover, assuming that AT&T provides equal access in the McCaw markets, there would be only a handful of markets that would not have at least one licensee subject to equal access obligations.

^{28/} The Proposed Final Judgment submitted by the Department of Justice, AT&T and McCaw to the U.S. District Court for the District of Columbia for approval stipulates that McCaw will provide competing long distance carriers with equal access to its cellular systems if AT&T's purchase of McCaw is permitted. See Justice Department Files Antitrust Suit and Consent Decree in AT&T-McCaw Merger, released July 15, 1994.

desire quality interexchange services, they are not particularly interested in the identity of the IXC service provider.^{29/} Those few subscribers that care about selecting particular IXCs have the choice of taking service from the equal access cellular carrier in that market. Comcast's menu of service offerings rely in part on its ability to differentiate itself from BAMS, its wireless competitor. Removing that ability limits customer choice.

C. By Imposing Equal Access Obligations On All Cellular Providers, The Commission Encourages The Transfer Of Revenues From Predominately Small Non-Wireline Cellular Operators To Large Facilities-Based IXCs, And From Small IXCs To Large IXCs.

The ramifications of mandating equal access for independent cellular operators are both significant and far-reaching. A direct result of imposing equal access obligations on the remaining independent cellular providers will be a transfer of revenues from non-wireline cellular operators and small IXCs to large facilities-based IXCs, including the non-wirelines' BOC competitors, who eventually will be permitted to offer long distance services.^{30/}

^{29/} See Opposition of Comcast to MCI's Petition, Policies and Rules Pertaining to the Equal Access Obligations of Cellular Licensees, at 6-7 (filed September 2, 1992).

^{30/} The implications of requiring a non-wireline carrier to offer equal access to an affiliate of its primary competitor are far-reaching. In addition to concerns associated with the manner in which technological, customer and other proprietary information will be protected, the independent carrier will be required to permit direct advertisement by and solicitation through a common BOC brand (continued...)

These revenue shifts will be detrimental to the public interest and particularly damaging to cellular customers as they come at a time when cellular operators are making tremendous reinvestments in their systems to offer greater capacity and new service options.

Historically, small, sophisticated non-BOC affiliated cellular carriers have been in a position to negotiate optimal rates for resale of cellular service. For instance, because Comcast can negotiate with IXCs to purchase volume discounted long distance service, it has been able to offer cellular subscribers free unlimited long distance calling during weekends.^{31/} If equal access obligations are imposed, however, independent cellular providers will no longer be able to attract long distance volume discounts and, in turn, will be unable to pass cost savings on to their cellular subscribers.

30/ (...continued)
to its subscribers. While the Commission's rules may address some aspects of this "common brand" concern, Comcast submits that it should not be placed in the untenable position of providing marketing for any BOC service. As such, the Commission's longstanding rules of BOC joint marketing will have to be revised.

31/ Furthermore, as discussed in its prior Comments, Comcast, for the past two years, has been offering a "Quicklink" service to its business customers that maximizes all available long distance volume discounts through the use of a dedicated connection between the MTSO and the businesses' private telephone system. See Opposition of Comcast to MCI Petition at 8. Imposing equal access, however, would discourage IXCs from negotiating with independent cellular providers to design such programs that directly benefit cellular customers.

Further, as non-BOC, non-AT&T affiliates, independent cellular operators have fewer economies of scope and scale, resulting in higher operating costs. Additionally, relatively smaller independents typically have smaller service areas than the BOC cellular operators, who received service areas virtually co-terminus with their landline monopolies under the Commission's set-aside rules. Consequently, non-wireline operators face greater costs and logistical difficulties in coordinating intersystem operations, from negotiating inter-system roaming arrangements to frequency reuse to equipment coordination. The risk of roamer fraud loss is also greater when numerous carriers must coordinate fraud and other call verification information.

Moreover, as discussed in more detail below, the imposition of equal access obligations on all cellular providers will deny cellular carriers the ability to create integrated systems that provide competitive local wireless and long distance service through an innovative telecommunications network. For instance, without Comcast's ability to contract with Sprint for the resale of interexchange service, it would have been impossible for Comcast to offer its advanced personal numbering service ("PNS") to its Trenton Personal Communications Services trial participants and its cellular customers.

The flexibility to create these advanced systems is directly dependent on a non-wireline cellular carrier's ability to offer some guarantee of traffic to an IXC to solicit its cooperation. If cellular providers are prohibited from offering smaller IXCs access to their customer base, the IXCs will find no benefit in partnering with cellular carriers to establish telecommunications "networks." Moreover, if independent cellular operators such as Comcast are forced into the position of taking inferior alternatives from a variety of IXCs, Comcast will inevitably become more dependent on the LEC local bottleneck to provide these functions, thereby increasing LEC monopoly leverage over Comcast as it struggles to provide competitive local services.

Broadly imposing equal access requirements also would obliterate significant business opportunities currently enjoyed by IXCs. The fact that non-wireline cellular operators can provide an immediate customer base for IXCs encourages competition in the IXC marketplace and results in more diverse IXC participation in markets that might otherwise be dominated by AT&T.^{32/} Denying IXCs the opportunity to negotiate contracts with independent cellular

^{32/} The public benefits of permitting limited bundling of cellular services with related capabilities and services has been recognized by the Commission in various contexts where cellular operators are unable to restrict competition in the related markets. See Report and Order, Bundling of Cellular Customer Premises Equipment and Cellular Service, 7 FCC Rcd 4028 (1992).

providers, to the benefit of the public, will result in greater domination of the IXC market by AT&T and potentially several other large facilities-based IXCs. The only real "benefit" generated by an all-inclusive equal access requirement would be the strengthening of the market positions of the large IXCs to the detriment of the 80-100 small IXCs currently providing services. Small IXCs simply would not be able to compete directly for equal access traffic.^{33/}

Finally, mandating equal access will hinder independent, non-BOC affiliated cellular providers from competing successfully against their BOC-affiliated counterparts. Because BOC-affiliated cellular providers are better positioned to offer specially tailored services over extensive geographic areas, the flexibility currently afforded independent cellular carriers to contract with IXCs provide independent cellular operators certain competitive advantages. Mandating equal access will only encourage the transfer of wealth from small cellular carriers to large IXCs, thereby inhibiting independent cellular carriers from reinvesting in their systems, upgrading their technologies and improving the overall quality of their service offerings.

^{33/} The cost burden associated with equal access marketing would simply be too great as compared to the amount of new traffic only small IXC might acquire.

Success in the cellular industry requires significant reinvestment of resources. In addition to the enormous initial investments required to launch a successful commercial cellular venture, cellular carriers are increasingly faced with demands for seamless coverage and the need to offer digital transmission formats. Unnecessarily imposing equal access obligations on independent carriers will exhaust resources that are otherwise required to compete in an increasingly competitive wireless marketplace.

D. The Costs Of Imposing Equal Access Obligations On Non-wireline Cellular Providers Far Outweigh The Benefits To Be Achieved

The Commission's tentative conclusion that imposing equal access obligations on all cellular carriers is in the public interest is based on a mistaken balancing of costs and benefits associated with equal access. Specifically, the benefits identified by the Commission are illusory, and the costs imposed on both the cellular and IXC markets are significant.

The Notice asserts four benefits to be achieved by imposing equal access on non-BOC affiliated cellular carriers that are allegedly consistent with the public interest. These include:

- (1) increasing choice and lowering the price of long distance services originating or terminating on cellular systems;

- (2) increasing access of end user and other telecommunications providers to networks;
- (3) permitting IXCs to develop service offerings for discounted long distance service that combines all of a customer's long distance calling, including residential wireline and cellular usage; and
- (4) supporting regulatory parity among similarly situated cellular carriers.^{34/}

A close examination of the effects of imposing equal access burdens on all cellular providers confirms that the public interest would best be served by deferring a determination on the issue until the wireless marketplace is sufficiently developed.

As discussed above, no evidence in the record verifies that permitting IXC choice for cellular end users' interexchange business will lead to lower prices for long distance service. Moreover, there is no support for the proposition that if the cellular carrier makes the decision about interexchange services that "an IXC has no direct incentive to meet the needs of end users."^{35/} Smaller IXCs have found the opportunity to contract with particular cellular companies to be invaluable to their success and growth as competitors to AT&T and the other larger interexchange carriers.

The Commission also assumes, without support in the record, that imposing equal access obligations on all

^{34/} See Notice at ¶ 36-39.

^{35/} See Notice at ¶ 36.

cellular providers will increase access of end users, and other telecommunications providers, to the "network of networks."^{36/} Comcast's well documented innovations regarding the interconnection of networks, however, could never have been accomplished but for the opportunity to contract with IXCs for interexchange services.

As noted above, Comcast had the ability to offer an advanced personal numbering service to its Trenton Personal Communications Services trial participants and its cellular customers, through the use of Sprint's ISDN network and the advanced intelligent network of BellSouth.^{37/} Unlike other personal numbering trials, the service offered more than advanced "call forwarding" capability, permitting the subscriber to designate the order in which the system should attempt to locate the number holder.^{38/}

^{36/} See Notice at ¶ 37. Comcast's ability to link networks for the provision of telecommunications services, without use of LEC facilities, was demonstrated in September 1992 with the completion of a trans-Atlantic telephone call that was accomplished through the use of a cellular system, an alternative access fiber optic network and PCS/CATV technology. Any basis to assume that cellular providers are limited in their ability to devise service proposals to compete with the local loop are unfounded.

^{37/} See Letter from Leonard J. Kennedy to H. Franklin Wright, Supplement to Ninth Quarterly Report for Personal Communications Services at 2 (filed September 15, 1993).

^{38/} In addition, the service offered advanced calling features such as caller announcement, call screening, return calling, fax capability and the establishment of priority calling lists and urgent call notifications.

Without the ability of Comcast to contract with Sprint for bulk long distance and to create a market for the interexchange service, it would have been impossible for Comcast to trial such an integrated network for the benefit of the public. The apparent assumption that independent non-wireline cellular operators are incapable of offering highly sophisticated services without the assistance of equal access IXCs is simply wrong.

Accordingly, mandating equal access would result in lost opportunities for non-wireline cellular carriers to partner with long distance providers to offer cellular subscribers cutting-edge technologies. In fact, imposing equal access obligations on all cellular providers would reserve all opportunities to establish advanced intelligent networks to the facilities-based interexchange carriers and BOCs who will be the only carriers with markets of sufficient size and scope to support these systems.^{39/} Rather than make judgments that relegate the future of independent cellular networks into the hands of the large IXCs, the Commission should be encouraging independent

^{39/} The Commission can provide no rationale for relegating non-wireline cellular carriers to the side-lines as it adopts rules that permit facilities-based interexchange carriers to create and manage a "network of networks." Without the ability to benefit small long distance companies with a guaranteed customer base, the Commission destroys any opportunity for non-wireline cellular providers to provide integrated service on a competitive basis with the largest interexchange carriers.

cellular operators to engage in developing these new functions and services.

The Commission further ignores the vital role cellular operators could play in providing innovative, integrated service in the emerging wireless market by suggesting that "ubiquitous cellular equal access would permit IXCs to develop service offerings for discounted long distance service that, for example, combines all of a customer's long distance calling, including residential wireline and cellular usage."^{40/} Assuming that only IXCs are technically and financially equipped to provide cost-effective, integrated service to telecommunications customers denies independent cellular carriers the opportunity to compete with facilities-based IXCs, as well as the LECs, in the quality and type of services that could be offered to telecommunications customers. It also assumes that consolidated long distance billing offers greater benefit than the flexibility of an independent to tailor service offerings to the technological and mobility needs of its cellular customers. In the end, burdening non-wireline cellular operators with BOC equal access obligations will benefit only the large facilities-based IXCs and will hinder the development of both end-to-end services and local loop competition from independent cellular operators.

^{40/} See Notice at ¶ 38.

Although the Notice suggests that equal access for all cellular providers may be consistent with the principle of regulatory parity underlying the recent statutory amendment, it is, in fact, completely antithetical to the intent of Congress. According to the legislative history of the regulatory parity provisions of the Omnibus Budget Reconciliation Act of 1993 ("Budget Act"), Congress' intent in mandating regulatory parity was to ensure that similar services are subject to similar regulation. In addition, Congress intended that the Commission be afforded flexibility to promulgate rules that recognize that market conditions may justify differences in the regulatory treatment of certain providers of CMRS.^{41/}

As illustrated above, non-wireline cellular operators are distinct from BOC-affiliated cellular operators and the LECs in that they command no bottleneck facilities and are not in a position to dominate the wireless marketplace or to impact the competitive nature of the IXC industry. Support for imposing equal access on all cellular carriers, based on the regulatory parity provisions of the Budget Act, therefore, is misplaced and ignores the fact that BOC-affiliated and non-wireline cellular providers are different in regard to the resources they command and the opportunities presented to each to disadvantage competitors.

Finally, the Commission ignores the significant

^{41/} See House Conference Report, No. 103-213 at 491.

financial costs that would be incurred by non-wireline cellular carriers if equal access is imposed. The required modifications to non-wireline cellular networks to offer equal access include costly reconfigurations of both software and switching mechanisms. It would be neither cost efficient nor good public policy for the Commission to force independent cellular providers to provide equal access, and undertake extensive system alterations, for what may only be a relatively short period. Once grandfathered CMRS providers are reclassified after the statutory three-year transition period, and the wireless marketplace has developed significantly to permit an accurate determination of the need for equal access, the Commission may very well conclude that any equal access mandate would be unnecessary.^{42/} Comcast urges the Commission to, at minimum, defer imposition of equal access on independent cellular providers until it is clear that mandating equal access will not adversely affect the ability of the independent cellular operator to reinvest in its network and offer advanced services to its subscribers.

^{42/} The impact of these costs on non-wireline cellular carriers is particularly extreme in that the competitive market demands that the costs not be passed on to non-wireline cellular customers, particularly if non-wireline cellular is to remain competitive with new technologies, such as PCS.

V. CONCLUSION

Comcast urges the Commission to establish a monopoly network interconnection policy that ensures full and fair interconnection, and creates real opportunities for competition and diversity. Specifically, Comcast recommends that Commission: (1) require that all Local Exchange Carrier interconnection agreements, state tariffs and billing and collection agreements be filed with the Commission and available for inspection; and (2) adopt a system of fair, cost-based interconnection rates, with mutual compensation between interconnection carriers, as the only regulatory structure capable of restricting a monopolist's ability to extend its dominance in a single segment of a market to the entire market.

Additionally, Comcast urges the Commission to refrain from imposing burdensome and costly equal access obligations on non-wireline cellular carriers without consideration of their ability to dominate competition in the wireless market. Prematurely mandating equal access will result in a reduction in competition in the wireless and interexchange marketplaces, and will unnecessarily restrict the ability of cellular providers to create a "network of networks" in response to consumer demand.

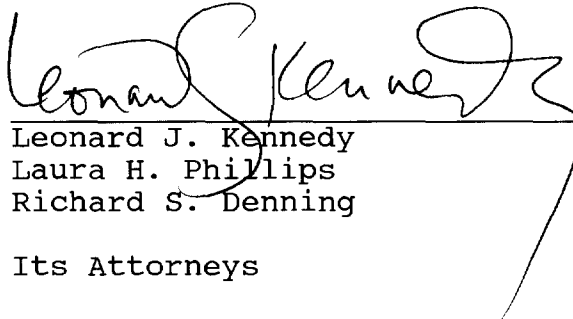
The Commission's tentative conclusion that imposing equal access obligations on all cellular carriers is in the public interest is based on a mistaken balancing of costs

and benefits associated with equal access. A close examination of the effects of imposing equal access burdens on all cellular providers confirms that the public interest would best be served by deferring a determination on the issue until the wireless marketplace is sufficiently developed.

Comcast respectfully submits that the Commission can have the greatest and most critical public policy impact by focusing on and reforming LEC monopoly interconnection arrangements. Only by reassessment and reform can the Commission realistically hope to achieve its local competition policy goals.

Respectfully submitted,

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